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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,147	01/26/2001	John J. Castellot JR.	JCW-001	6199

959 7590 11/14/2003

LAHIVE & COCKFIELD  
28 STATE STREET  
BOSTON, MA 02109

EXAMINER
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DONNELLY, JEROME W

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 11/14/2003

8

*Lyn 67994 0737*

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/771147

Applicant(s)

Castellot Jr

Examiner

Jerome W Donnelly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Amendment dated 7-23-03
- 2a) ☐ This action is FINAL.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 18-25 32 34-36 and 39-53 is/are pending in the application.
- 4a) Of the above claim(s) 1-16 18-25 32 34-36 and 39-53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-16 18-25 32 34-36 and 39-53 is/are allowed.
- 6) ☐ Claim(s) 1-16 18-25 32 34-36 and 39-53 is/are rejected.
- 7) ☐ Claim(s) 1-16 18-25 32 34-36 and 39-53 is/are objected to.
- 8) ☒ Claim(s) 1-16 18-25 32 34-36 and 39-53 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 1-16 18-25 32 34-36 and 39-53 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on 1-16 18-25 32 34-36 and 39-53 is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. 09/771147.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received. **Primary Examiner**
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 09/771147
- 4) ☐ Interview Summary (PTO-413) Paper No(s) 09/771147
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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This application contains claims directed to the following patentably distinct species of the claimed invention: Group 1, fig 1, Longitudinal hinge configuration, Group 2, fig 3 and fig 3, with wise hinge configuration, Group 3, figs 18-20, chair mounted units, Group 4, Fig 13 angle adjustable units, Group 5, Fig 14, units having resilient cords, Group 6, Fig 15, units having cords and pulleys. Once applicant elects an embodiment from above the applicant in addition must elect the appropriate embodiment of foot pedals.

- Figs 5-7
- Figs 8 and 9 having resistance means as shown
- Figs 10 and 11, having rollers
- Fig 12, having flanges
- Gliders which adj downward as disclosed by element (48).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include

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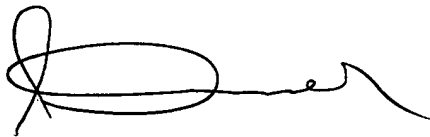
all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number 308-2668.

Donnelly/DI

October 10, 2003

A handwritten signature in black ink, appearing to be 'Jerome W. Donnelly', with a large loop at the beginning and a trailing flourish.

Jerome W. Donnelly  
Primary Examiner